



Reprinted
April 10, 2001

ENGROSSED SENATE BILL No. 448

DIGEST OF SB 448 (Updated April 9, 2001 6:27 PM - DI 84)

Citations Affected: IC 3-11; IC 5-26.5.

Synopsis: Address confidentiality program. Establishes an address confidentiality program in the office of the attorney general. Makes the program available to individuals (including minors and incapacitated persons represented by a parent or guardian) who have obtained a protective order to protect them from domestic violence and wish to keep their addresses confidential from their abusers. Prescribes guidelines for the administration of the program. Provides that an address designated by the office of the attorney general serves as the individual's address for purposes of: (1) service of process; and (2) receipt of mail. Enables the individual to vote without making the individual's address available to the public. Requires the address of the individual who participates in the program to remain confidential except under certain circumstances. Specifies that an individual who provides false or incorrect information on a program application commits perjury. Requires the office of the attorney general to designate certain agencies that provide services to victims of domestic violence to assist an individual who applies to the program. Creates an address confidentiality fund to accept donations, grants or appropriations.

Effective: July 1, 2001.

Simpson, Kenley, Zakas, Young R

(HOUSE SPONSORS — KRUZAN, BUDAK)

January 18, 2001, read first time and referred to Committee on Judiciary.

March 1, 2001, amended, reported favorably — Do Pass.

March 5, 2001, read second time, amended, ordered engrossed.

March 6, 2001, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Judiciary.

April 2, 2001, reported — Do Pass.

April 5, 2001, read second time, amended, ordered engrossed.

April 9, 2001, engrossed. Read third time, recommitted to Committee of One, amended; passed. Yeas 96, nays 0.

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April 10, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED SENATE BILL No. 448

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-11-4-6 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) This section applies,
3 notwithstanding any other provision of this title, to absentee ballot
4 applications for:
5 (1) an absent uniformed services voter (as defined in 42 U.S.C.
6 1973ff-6(1)); **and**
7 (2) **an address confidentiality program participant (as defined**
8 **in IC 5-26.5-1-6).**
9 (b) A county election board shall make blank absentee ballot
10 applications available for persons covered by this section after
11 November 20 preceding the election to which the application applies.
12 Except as provided in subsection (c), the person may apply for an
13 absentee ballot at any time after the applications are made available.
14 (c) A person covered by this section may apply for an absentee
15 ballot for the next scheduled primary, general, or special election at any
16 time by filing a standard form approved under 42 U.S.C. 1973ff-(b).
17 (d) If the county election board receives an absentee ballot

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1 application from a person described by this section, the circuit court
 2 clerk shall mail to the person, free of postage as provided by 39 U.S.C.
 3 3406, all ballots for the election immediately upon receipt of the ballots
 4 under sections 13 and 15 of this chapter.

5 (e) Whenever an absent uniformed services voter **or an address**
 6 **confidentiality program participant (as defined in IC 5-26.5-1-6)**
 7 files an application for a primary election absentee ballot and indicates
 8 on the application that:

9 **(1) the voter is an absent uniformed services voter and** does not
 10 expect to be in the county on general election day and on the date
 11 of any special election conducted during the twelve (12) months
 12 following the date of the application; **or**

13 **(2) the voter is an address confidentiality program**
 14 **participant;**

15 the application is an adequate application for a general election
 16 absentee ballot under this chapter and an absentee ballot for a special
 17 election conducted during the twelve (12) months following the date of
 18 the application. The circuit court clerk and county election board shall
 19 process this application and mail general election and special election
 20 absentee ballots to the voter in the same manner as other general
 21 election and special election absentee ballot applications and ballots
 22 are processed and mailed under this chapter.

23 (f) **The name, address, telephone number, and any other**
 24 **identifying information relating to a program participant (as**
 25 **defined in IC 5-26.5-1-6) in the address confidentiality program, as**
 26 **contained in a voting registration record, is declared confidential**
 27 **for purposes of IC 5-14-3-4(a)(1). The county voter registration**
 28 **office may not disclose for public inspection or copying a name, an**
 29 **address, a telephone number, or any other information described**
 30 **in this subsection, as contained in a voting registration record,**
 31 **except as follows:**

32 **(1) To a law enforcement agency, upon request.**

33 **(2) As directed by a court order.**

34 (g) This subsection applies to a county election board that owns or
 35 has access to a facsimile (FAX) machine. The county election board
 36 may transmit and receive absentee ballots by FAX machine to voters
 37 covered under the Uniformed and Overseas Absentee Voting Act (42
 38 U.S.C. 1973ff) under the following circumstances:

39 (1) If an emergency is declared by the President of the United
 40 States, the Congress of the United States, or the presidential
 41 designee under the Uniformed and Overseas Absentee Voting Act
 42 (42 U.S.C. 1973ff).



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(2) If otherwise mandated to do so under federal law.

SECTION 2. IC 3-11-4-7 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2001]: Sec. 7. An absentee ballot application
under section 6 of this chapter must:

(1) be made on a standard form approved under 42 U.S.C.
1973ff-(b) or on the form prescribed by the commission under
section 5.1 of this chapter; and

(2) show that the:

(A) absent uniformed services voter (as defined in 42 U.S.C.
1973ff-6(1)); or

(B) address confidentiality program participant (as defined
in IC 5-26.5-1-6);

is a resident otherwise qualified to vote in the precinct.

SECTION 3. IC 5-26.5 IS ADDED TO THE INDIANA CODE AS
A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2001]:

ARTICLE 26.5. ADDRESS CONFIDENTIALITY PROGRAM
Chapter 1. Definitions

**Sec. 1. The definitions in this chapter apply throughout this
article.**

Sec. 2. "Address" means:

- (1) a residential street address;
- (2) a school address; or
- (3) a work address;

of an individual as specified on an individual's application to be a
program participant.

**Sec. 3. "Domestic violence" includes conduct that is an element
of an offense under IC 35-42 or a threat to commit an act described
in IC 35-42 by a person against a person who:**

- (1) is or was a spouse of;
- (2) is or was living as if a spouse of;
- (3) has a child in common with;
- (4) is a minor subject to the control of; or
- (5) is an incapacitated individual under the guardianship or
otherwise subject to the control of;

the other person regardless of whether the act or threat has been
reported to a law enforcement agency or results in a criminal
prosecution.

**Sec. 4. "Incapacitated individual" has the meaning set forth in
IC 12-10-7-1.**

**Sec. 5. "Minor" means a person who is less than eighteen (18)
years of age.**



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1 **Sec. 6. "Program participant"** refers to an individual certified
2 as a program participant under IC 5-26.5-2-3.

3 **Sec. 7. "Protective order"** means any order issued by a court
4 that prohibits a person from directly or indirectly contacting,
5 harassing, disturbing, or approaching another person. The term
6 includes an order (as defined in IC 5-2-9-2.1) and a protective
7 order from a foreign jurisdiction.

8 **Chapter 2. Address Confidentiality Program**

9 **Sec. 1.** The following individuals may apply to the office of the
10 attorney general to have an address designated by the office of the
11 attorney general serve as the individual's address or as the address
12 of a minor or an incapacitated individual:

- 13 (1) An individual who is at least eighteen (18) years of age.
- 14 (2) A parent or guardian acting on behalf of a minor.
- 15 (3) A guardian acting on behalf of an incapacitated individual.

16 **Sec. 2.** The office of the attorney general shall approve an
17 application filed in the manner and on a form prescribed by the
18 office of the attorney general if the application contains the
19 following:

- 20 (1) A sworn statement by the applicant that the applicant has
21 good reason to believe that:
 - 22 (A) the applicant, or the minor or incapacitated individual
23 on whose behalf the application is made, is a victim of
24 domestic violence; and
 - 25 (B) the applicant fears for:
 - 26 (i) the applicant's safety; or
 - 27 (ii) the safety of a minor or an incapacitated individual
28 on whose behalf the application is made.
- 29 (2) A copy of a valid protective order issued on behalf of the
30 applicant or the minor or incapacitated individual on whose
31 behalf the application is made.
- 32 (3) A designation of the office of the attorney general as an
33 agent of the applicant for the purpose of:
 - 34 (A) service of process; and
 - 35 (B) receipt of mail.
- 36 (4) The:
 - 37 (A) mailing address; and
 - 38 (B) telephone number;
 where the applicant may be contacted by the office of the
39 attorney general.
- 40 (5) The new address that the applicant requests not be
41 disclosed because disclosure may increase the risk of domestic
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1 violence.

2 (6) The signature of the applicant and of any representative
3 of an agency designated under IC 5-26.5-3-4 that assisted in
4 the preparation of the application.

5 (7) The date the applicant signed the application.

6 Sec. 3. (a) Upon approving an application under section 2 of this
7 chapter, the office of the attorney general shall certify the
8 applicant as a program participant.

9 (b) Subject to IC 5-26.5-3-2, the name, address, telephone
10 number, and any other identifying information relating to a
11 program participant, as contained in a record created under this
12 chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1).

13 Sec. 4. A program participant may use an address designated by
14 the office of the attorney general as the program participant's
15 work address.

16 Sec. 5. A program participant who is otherwise qualified to vote
17 may apply to vote in the same manner as an absent uniformed
18 services voter under IC 3-11-4-6.

19 Sec. 6. Certification as a program participant continues as long
20 as the protective order that is the basis for the certification is in
21 effect, unless certification is withdrawn, revoked, or otherwise
22 invalidated before that date.

23 Sec. 7. A program participant shall notify the office of the
24 attorney general when a protective order that is the basis for
25 certification as a participant is terminated.

26 Sec. 8. The attorney general shall establish a renewal process to
27 allow a person to continue as a participant in the program when a
28 program participant's protective order is modified or replaced.

29 Sec. 9. If:

30 (1) a protective order on which certification as a program
31 participant is based is modified; or

32 (2) a new protective order is issued to replace the protective
33 order on which certification as a program participant is
34 based;

35 the program participant must provide the office of the attorney
36 general with a copy of the modified or new protective order to
37 continue as a program participant.

38 Sec. 10. A person who knowingly or intentionally:

39 (1) falsely attests in an application made under this chapter
40 that disclosure of the applicant's address would endanger:

41 (A) the applicant's safety; or

42 (B) the safety of a minor or an incapacitated individual

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1 upon whose behalf the application is made; or
 2 (2) provides false or incorrect information upon making an
 3 application under this chapter;
 4 commits perjury.

5 **Chapter 3. Duties of the Office of the Attorney General**

6 **Sec. 1.** The office of the attorney general may adopt rules to
 7 implement this article.

8 **Sec. 2.** The office of the attorney general may not disclose for
 9 public inspection or copying the name, address, telephone number,
 10 or any other identifying information relating to a program
 11 participant that is declared confidential under IC 5-26.5-2-3(b), as
 12 contained in a record created under this chapter, except as follows:

13 (1) When requested by a law enforcement agency, to the law
 14 enforcement agency.

15 (2) When directed by a court order, to a person identified in
 16 the order.

17 (3) When certification of a program participant is revoked.

18 **Sec. 3.** The office of the attorney general shall forward first class
 19 mail belonging to a program participant to the program
 20 participant.

21 **Sec. 4.** The office of the attorney general shall designate:

22 (1) state and local agencies; and

23 (2) nonprofit agencies;

24 that provide counseling and shelter services to victims of domestic
 25 violence to assist persons in applying to be program participants.

26 **Sec. 5.** Assistance and counseling provided by the office of the
 27 attorney general or its designees to applicants under this article
 28 may not be construed as legal advice.

29 **Sec. 6. (a)** The office of the attorney general may accept grants
 30 and donations made to the office for the purposes of this article.

31 (b) The address confidentiality fund is established as a dedicated
 32 fund to be administered by the office of the attorney general. The
 33 fund consists of money accepted by the office of the attorney
 34 general under subsection (a) and any appropriations made to the
 35 fund by the general assembly.

36 (c) Expenses of administering the fund shall be paid from money
 37 in the fund.

38 (d) The treasurer of state shall invest the money in the fund not
 39 currently needed to meet the obligations of the fund in the same
 40 manner as other public money may be invested. Interest that
 41 accrues from these investments shall be deposited in the fund.

42 (e) Money in the fund at the end of a fiscal year does not revert



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to the state general fund. Money in the fund is continuously appropriated for the purposes of this article.

Chapter 4. Revocation of Certification as a Program Participant

Sec. 1. The office of the attorney general shall revoke the certification of a program participant who obtains a change of name under IC 34-28-2.

Sec. 2. The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address.

Sec. 3. The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable.

Sec. 4. The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information.

Sec. 5. Unless the program participant's certification has been renewed under IC 5-26.5-2-10, the office of the attorney general shall revoke the certification of a program participant if the attorney general determines that the protective order on which the certification is based has expired or has been terminated.

Sec. 6. At least annually, the office of the attorney general shall check with an issuing state or court to determine whether a protective order that does not expire within one (1) year after it is issued is still in effect.

Sec. 7. The office of the attorney general shall investigate to determine whether a program participant continues to qualify for participation in the program if a person notifies the office that the protective order on which a program participant's certification as a program participant is based has expired or has been terminated.

Chapter 5. Agency Use of Designated Address

Sec. 1. The program participant, and not the office of the attorney general, is responsible for requesting other persons to use the address designated by the office of the attorney general as the program participant's address.

Sec. 2. A program participant may request that any person, including a state or local agency, use the address designated by the office of the attorney general as the program participant's address.

Sec. 3. (a) Whenever a state or local agency creates a new public

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record, the agency shall accept the address designated by the office of the attorney general as a program participant's substitute address unless the office of the attorney general determines that the agency is required by statute or administrative rule to use an address that would otherwise be confidential under this article.

(b) A state or local agency that uses a confidential address under subsection (a) may use the confidential address only for the purpose set out in the statute or administrative rule identified under subsection (a).

Sec. 4. If:

(1) section 3 of this chapter does not apply; and

(2) federal law does not specifically require that the person use an address that otherwise would be confidential under this chapter;

the person that receives a request under section 2 of this chapter shall use the address designated by the office of the attorney general as the program participant's address.

Sec. 5. A person who ceases to be a program participant is responsible for notifying persons who use the address designated by the office of the attorney general as the program participant's address that the designated address is no longer the person's address.

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SENATE MOTION

Mr. President: I move that Senator Kenley be added as second author and Senators Zakas and Young R be added as coauthors of Senate Bill 448.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 448, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 23, delete "auditor shall" and insert "**voter registration office may**".

Page 3, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 7. "Protective order" means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction."

Page 4, between lines 18 and 19, begin a new line block indented and insert:

"(2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made."

Page 4, line 19, delete "(2)" and insert "(3)".

Page 4, line 23, delete "(3)" and insert "(4)".

Page 4, line 28, delete "(4)" and insert "(5)".

Page 4, line 31, delete "(5)" and insert "(6)".

Page 4, line 34, delete "(6)" and insert "(7)".

Page 5, line 5, delete "duration of".

Page 5, line 5, delete "as" and insert "of".

Page 5, line 5, delete "is" and insert "**expires on the earlier of:**

(1) the date on which the protective order made part of the program application expires; or

(2)".

Page 5, line 6, after "years" insert "**after the application is filed;**".

Page 5, line 6, begin a new line blocked left beginning with "unless".

Page 5, line 7, delete "The period begins the date".

Page 5, line 8, delete "an application is filed".

Page 5, line 9, after "procedure." insert "**However, the office of the attorney general may renew only the application of a program participant on whose behalf a valid protective order has been issued."**

Page 5, line 18, delete "a Class B misdemeanor." and insert "**perjury."**

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Page 6, line 8, after "with" insert "**written**".
and when so amended that said bill do pass.

(Reference is to SB 448 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 448 be amended to read as follows:

Page 5, delete lines 13 through 22, begin a new paragraph and insert:

"Sec. 6. Certification as a program participant continues as long as the protective order that is the basis for the certification is in effect, unless certification is withdrawn, revoked, or otherwise invalidated before that date.

Sec. 7. A program participant shall notify the office of the attorney general when a protective order that is the basis for certification as a participant is terminated.

Sec. 8. The attorney general shall establish a renewal process to allow a person to continue as a participant in the program when a program participant's protective order is modified or replaced.

Sec. 9. If:

(1) a protective order on which certification as a program participant is based is modified; or

(2) a new protective order is issued to replace the protective order on which certification as a program participant is based;

the program participant must provide the office of the attorney general with a copy of the modified or new protective order to continue as a program participant."

Page 5, line 23, delete "7." and insert "10."

Page 6, between lines 29 and 30, begin a new paragraph and insert:

"Sec. 5. Unless the program participant's certification has been renewed under IC 5-26.5-2-10, the office of the attorney general shall revoke the certification of a program participant if the attorney general determines that the protective order on which the certification is based has expired or has been terminated.

Sec. 6. At least annually, the office of the attorney general shall check with an issuing state or court to determine whether a protective order that does not expire within one (1) year after it is issued is still in effect.

Sec. 7. The office of the attorney general shall investigate to determine whether a program participant continues to qualify for participation in the program if a person notifies the office that the protective order on which a program participant's certification as a program participant is based has expired or has been terminated."

Page 6, between lines 30 and 31, begin a new paragraph and insert:

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"Sec. 1. The program participant, and not the office of the attorney general, is responsible for requesting other persons to use the address designated by the office of the attorney general as the program participant's address."

Page 6, line 31, delete "1." and insert "2."

Page 6, line 31, after "that" insert **"any person, including"**.

Page 6, line 32, after "agency" insert ",".

Page 6, line 34, delete "2." and insert **"3."**

Page 7, after line 1, begin a new paragraph and insert:

"Sec. 4. If:

(1) section 3 of this chapter does not apply; and

(2) federal law does not specifically require that the person use an address that otherwise would be confidential under this chapter;

the person that receives a request under section 2 of this chapter shall use the address designated by the office of the attorney general as the program participant's address.

Sec. 5. A person who ceases to be a program participant is responsible for notifying persons who use the address designated by the office of the attorney general as the program participant's address that the designated address is no longer the person's address."

(Reference is to SB 448 as printed March 2, 2001.)

KENLEY

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STURTZ, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Senate Bill 448 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Page 2, delete lines 23 through 26, begin a new paragraph and insert:

"(f) The name, address, telephone number, and any other identifying information relating to a program participant in the address confidentiality program (as defined in IC 5-26.5-1-6), as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, address, telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:"

Page 5, delete lines 4 through 6, begin a new paragraph and insert:

"(b) Subject to IC 5-26.5-3-2, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1)."

Page 6, delete lines 2 through 5, begin a new paragraph and insert:

"(f) The office of the attorney general may not disclose for public inspection or copying the name, address, telephone number, or any other identifying information relating to a program participant that is declared confidential under IC 5-26.5-2-3(b), as contained in a record created under this chapter, except as follows:"

Page 6, between lines 21 and 22, begin a new paragraph and insert:

"Sec. 6. (a) The office of the attorney general may accept grants and donations made to the office for the purposes of this article.

(b) The address confidentiality fund is established as a dedicated fund to be administered by the office of the attorney general. The fund consists of money accepted by the office of the attorney general under subsection (a) and any appropriations made to the fund by the general assembly.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that



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accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund. Money in the fund is continuously appropriated for the purposes of this article."

(Reference is to SB 448 as reprinted March 6, 2001.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 2, line 23, reset in roman "(f)".

Page 2, line 24, after "participant" insert "**(as defined in IC 5-26.5-1-6)**".

Page 2, line 25, after "program" insert ",".

Page 2, line 25, delete "(as defined in IC 5-26.5-1-6),".

Page 2, line 28, after "name," insert "**an**".

Page 2, line 29, after "address," insert "**an**".

Page 6, line 8, delete "(f)" and insert "**Sec. 2.**".

(Reference is to ESB 448 as reprinted April 6, 2001.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 448, begs leave to report that said bill has been amended as directed.

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